

## **REMARKS**

### **I. Summary of Telephonic Interview with Examiner Blizzard**

The undersigned contacted Examiner Blizzard via telephone on June 19, 2009 to discuss the apparent omission of pending claim 83, as reflected in the preliminary amendment filed on October 31, 2007, from the Restriction Requirement mailed on May 28, 2009. As reflected in the preliminary amendment filed on October 31, 2007, Examiner Blizzard agreed that claim 83 is dependent on claim 80 and thus should be included in Group I, drawn to an inhaler with an indexing mechanism, as identified in Restriction Requirement mailed on May 28, 2009. Therefore, for the purposes of responding to the Restriction Requirement mailed on May 28, 2009, claims 1 to 83 will be pending as reflected in preliminary amendment filed on October 31, 2007, and Group I will be identified as "Claims 1 to 35 and 64 to 83, drawn to an inhaler with an indexing mechanism."

### **II. Status of Claims**

Claims 1 to 83 were pending in the present application as reflected in preliminary amendment filed on October 31, 2007. Claims 36 to 63 are cancelled without prejudice in response to the Restriction Requirement. Claims 1 to 35 and 64 to 83 are now pending. It is respectfully submitted that no new matter was added in this amendment.

### **III. Restriction Requirement**

In the Office Action, the Examiner asserted that the present application contains claims which are directed to the following two distinct inventions and stated that restriction to one of the two inventions is required:

Group I: Claims 1 to 35 and 64 to 83, drawn to an inhaler with an indexing mechanism;  
or

Group II: Claims 36 to 63, drawn to an inhaler with a piercing head.

In response, Applicants elect, without traverse, Group I (claims 1 to 35 and 64 to 83), drawn to an inhaler with an indexing mechanism. Claims 36 to 63 were related to the invention of Group II, and, therefore, were canceled as reading on the non-elected invention. It is

respectfully submitted that pending claims 1 to 35 and 64 to 83 encompass and are readable on the elected invention.

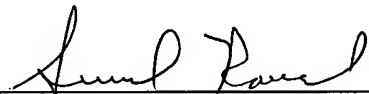
**Conclusion**

This Response is being submitted in response to the Office Action dated May 28, 2009 in the above-identified application. This Response to the May 28, 2009 Office Action is being filed before the one (1) month statutory period set forth therein, and this Response is being timely filed. It is believed that no fee is due at this time. If it is determined that any additional fee is due in connection with this filing, the Commissioner is authorized to charge said fees to Deposit Account No. 50-0552.

An early and favorable action on the merits is earnestly requested.

Respectfully submitted,

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